

Remarks

Applicants have amended some of the existing claims as set forth above in an effort to place the application in condition for allowance. Reconsideration is respectfully requested in view of the foregoing amendments and the following remarks offered on the cited prior art and it is trusted they will be persuasive in bringing about favorable reconsideration and allowance of the claims.

Claim Objections

Claim 9 is amended to correct the informality noted by the Examiner. As so amended, Applicants respectfully submit the objection to the claim is overcome.

Claim Rejections Under 35 U.S.C. §112

Claims 1-8 and 17-19 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Dependent claim 4 is amended as set forth above to be consistent with independent claim 1 from which it depends. As so amended, Applicants respectfully submit that the rejection under 35 U.S.C. §112 is now overcome and request withdrawal of the claim rejections.

Claim Rejections Under 35 U.S.C. §102

Claims 1-16 have been rejected as being completely shown by Brandenburg U.S. Patent No. 5,894,516. As best understood, Applicants believe the Examiner refers to independent claims 1, 9 and 13 rather than 1, 5 and 13 as set forth in paragraph 5 of the Office Action.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP 2131.

Applicants respectfully disagree with the rejection of the claims as being anticipated by Brandenburg for the following cogent reasons.

**I. Brandenburg lacks the order comprising at least unique identification information in the form identification code of the user station equipment**

The Examiner argues that the licensing program 22 also generates the unique computer identifier code (e.g. computer identification number) for the computer 10 that the installer/receiver program 24 runs. A customer provides this unique identification code whenever it places an order for a software package (column 2, lines 55-60). It is clear that Brandenburg teaches that one absolutely needs to have the licensing program software running on the computer in order to place a request order for the desired software package.

Brandenburg's unique identification code generated by the licensing program is not and is technically impossible to be the identification code of the user station equipment as is taught, disclosed and claimed in Applicants' invention.

Applicants' invention has no such licensing program and further does not rely on an installer/receiver program 24 as taught and required by Brandenburg.

Brandenburg at column 3, lines 22-27 which clearly requires the installation of the licensing program and receiver/installer program on a target computer 18. Only users having this licensing program software on their computer receive software according to the invention; i.e. the encrypted software that is transmitted via satellite is otherwise unusable.

Brandenburg relies on encryption keys and provides an encryption key for example via fax or email which is then entered onto the target computer to allow the target computer to receive the software product which will only run on the target computer having the licensing program due to the encryption key. The Examiner takes the position that the new key, the "encrypted encryption key" is to lock a particular computer, "the computer with the identification code generated by the licensing program used to encrypt the encryption key" to a particular software package (column 3, lines 41-54). Therefore, Brandenburg creates a separate encryption key and uses this encryption key to unlock the software package.

Brandenburg nor the Examiner explain how the software licensing program interacts with the computer hardware to extract an equipment identification code and therefore the element is lacking. In contrast in Applicants' invention, the unique identification information is in the form of an identification code of the user station equipment.

**II. Brandenburg lacks configuring a general application accessible to the application source to include the unique identification specific to the particular user station equipment identification code**

Brandenburg encrypts the encryption key specific to the ordered software package using the identification number generated by the licensing program running on the computer 18 to produce a new key by encrypting the software encryption key for the ordered software packaging using the identification code generated by the licensing program running on the computer 18. The purpose of the encrypted encryption key is to lock the computer with the identification code used to encrypt the encryption key to the particular software package (column 3, lines 36-46). There is no teaching, suggestion or disclosure in Brandenburg that the dedicated executable application is prepared by configuring a general application accessible to the application source to include the unique identification information specific to the code particular user station equipment identification code. There is no fair basis nor would one skilled in that art look to an encrypted encryption key as the user station equipment identification code as suggested by the Examiner.

**Claim Rejections Under 35 U.S.C. §103(a)**

Claims 17-19 are rejected under 35 U.S.C. §103(a) as being anticipated by Brandenburg U.S. Patent 5,894,516. The Examiner takes official notice that IMEI, ESN and SIM are well known unique identifications existing in computers. Applicants respectfully disagree with the Examiner's conclusion.

IMEI and SIM are not computer related items, they are wireless mobile phone components. Applicants include a portion of Newton's Telecom Dictionary 16th Expanded and Updated Edition. IMEI (International Mobile Station Equipment Identity) is defined as a wireless telecommunications term, an equipment identification number similar to a serial number used to identify a mobile station. The term SIM (Subscriber Identity Module) is defined as a smart card installed or inserted into a mobile telephone containing all subscriber related data.

Accordingly, the user station equipment identification code as disclosed and claimed is technically distinguishable and performs a different function than the identification code generated by the licensing program in Brandenburg and there is no fair basis for asserting that the licensing program identification represents the equipment identification code.

In summary, it is submitted that the present invention as disclosed and claimed is readily distinguishable from the prior art for the reasons indicated. Applicants' invention is not disclosed by the prior art and there is no fair basis for alleging that Applicants' invention is anticipated or obvious in regard to such prior art. If the invention was obvious, it would have been adopted before in view of its advantages.

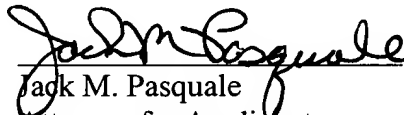
**Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all the claims of the application are allowable and early favorable action is earnestly solicited. The Examiner is invited to call Applicants' attorney if any questions remain following review of this response.

In the event the Examiner upon reconsideration is not persuaded and does not issue an allowance of the claims, Applicants' submit herewith a notice of appeal of the Examiner's final action.

Respectfully submitted,

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